

MARVIN S.C. DANG #2221
JASON M. OLIVER #7621
SUMMER OKADA #8171
RENEE M. FURUTA #7593
Law Offices of Marvin S.C. Dang, LLC
P.O. Box 4109, Honolulu, Hawaii 96812-4109
Telephone No.: (808) 521-8521
Facsimile No.: (808) 521-8522
Email: dangm@aloha.net

Attorneys for Secured Creditor
AMERICAN SAVINGS BANK, F.S.B.
and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
acting solely as nominee for AMERICAN SAVINGS BANK, F.S.B.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF HAWAII

In re)	CASE NO. 10-02154
)	(Chapter 7)
MAX B. AIONA, III, and MARIE L. AIONA,)	
Debtors.)	STIPULATED ORDER TERMINATING
)	AUTOMATIC STAY

STIPULATED ORDER TERMINATING AUTOMATIC STAY

This “Stipulated Order Terminating Automatic Stay” is made with reference to the facts described below.

On July 15, 2010, the Debtor **MAX B. AIONA, III** and Debtor **MARIE L. AIONA** (collectively called “Debtor”) filed a Petition under Chapter 7 of the Bankruptcy Code commencing this case.

DAVID C. FARMER is the Trustee of the Debtor’s estate.

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., acting solely as nominee for AMERICAN SAVINGS BANK, F.S.B. (“MERS”) holds the first Mortgage on the real property located at **Apt. No. 3604, Makana Kai At Wehilani, 68-3942 Moana Place, Waikoloa, Hawaii 96738, Tax Map Key No.: (3) 6-8-037:059 (CPR 81)** (“Property”). The MERS

(080310/MSCD/so)

Mortgage secures the Note dated November 26, 2006 made by the Debtor as Borrower/Mortgagor in favor of **AMERICAN SAVINGS BANK, F.S.B.** (“ASB”).

The Property is the subject of a pending foreclosure case (Mortgage Electronic Registration Systems, Inc., acting solely as nominee for American Savings Bank, F.S.B. vs. Max Baron Aiona, III; Marie Louise Aiona, et al., Circuit Court of the Third Circuit, Civil No. 09-1-518K (“Foreclosure Case”)). The Foreclosure Case was filed against the Debtor, and others, because the MERS Mortgage and ASB Note are in default because of the failure of the Debtor to make payments due. The Debtor does not have the ability or intent of curing the default.

In the Debtor’s Statement of Intention, the Debtor states that the Debtor intends to surrender the Property.


There is no meaningful equity in the Property for the benefit of the unsecured creditors of the Debtor’s estate.

ACCORDINGLY, IT IS ORDERED that the automatic stay provided under 11 U.S.C. §362 is terminated regarding the Property to, among other things, allow ASB and MERS, its employees, attorneys, sheriffs, agents, and any foreclosure Commissioner to proceed against the Debtor and other interested parties regarding the exercise and enforcement of all of ASB’s and MERS’s rights and remedies against the Debtor and the Debtor’s estate, including, but not limited to, (a) the foreclosure of the Mortgage on, the recovery of possession of, the sale of, the conveyance of, and the receipt of payment and monies from the Property, and (b) the eviction and removal of the Debtor and the Debtor’s property from the Property.

There shall not be a deficiency judgment obtained against the Debtor without further order of this Court.

The parties agree that this Order may be signed in counterparts, each of which shall be considered an original Order. The counterparts together shall be considered the same Order. The counterparts will obligate the parties even though everyone is not signing the original or the same counterparts. For all purposes (including, but not limited to, recordation, filing and delivery of this Order) duplicate unsigned pages of the counterparts may be discarded and the remaining pages put together as one Order.

Dated: Honolulu, Hawaii, _____.

 **/s/ Robert J. Faris**
United States Bankruptcy Judge
Dated: August 19, 2010

STIPULATED AND AGREED AS TO THE ABOVE:

/s/ Lisa M. Volquardsen
LISA M. VOLQUARSEN
Attorney for Debtors

DATED: August 16, 2010

/s/ David C. Farmer
DAVID C. FARMER
Trustee

DATED: August 16, 2010

/s/ Summer Okada
MARVIN S.C. DANG
SUMMER OKADA
Attorneys for Secured Creditor

DATED: August 16, 2010

In re Max B. Aiona, III and Marie L. Aiona
United States Bankruptcy Court for District of Hawaii
Case No. 10-02154
“Stipulated Order Terminating Automatic Stay”